

Bill No. SB 1276

Barcode 855152

591-2046-06

Proposed Committee Substitute by the Committee on Criminal Justice

1                                   A bill to be entitled  
2           An act relating to the sealing and expunction  
3           of criminal records; amending s. 943.0585,  
4           F.S.; clarifying that a criminal record that  
5           relates to certain offenses may not be  
6           expunged, regardless of whether adjudication  
7           was withheld, if the defendant was found guilty  
8           of or pled guilty or nolo contendere to the  
9           offense; amending s. 943.059, F.S.; clarifying  
10          that a criminal record that relates to certain  
11          offenses may not be sealed, regardless of  
12          whether adjudication was withheld, if the  
13          defendant was found guilty of or pled guilty or  
14          nolo contendere to the offense; providing that  
15          a certificate of eligibility for sealing is  
16          available if the person seeking the certificate  
17          has never secured a prior sealing or expunction  
18          of a criminal history record under specified  
19          provisions involving an offense for which he or  
20          she was found guilty or pled guilty or nolo  
21          contendere; providing an effective date.

22  
23 Be It Enacted by the Legislature of the State of Florida:

24  
25           Section 1.   Section 943.0585, Florida Statutes, is  
26 amended to read:

27           943.0585   Court-ordered expunction of criminal history  
28 records.--The courts of this state have jurisdiction over  
29 their own procedures, including the maintenance, expunction,  
30 and correction of judicial records containing criminal history  
31 information to the extent the ~~such~~ procedures are not

Bill No. SB 1276

Barcode 855152

591-2046-06

1 inconsistent with the conditions, responsibilities, and duties  
 2 established by this section. Any court of competent  
 3 jurisdiction may order a criminal justice agency to expunge  
 4 the criminal history record of a minor or an adult who  
 5 complies with the requirements of this section. The court  
 6 shall not order a criminal justice agency to expunge a  
 7 criminal history record until the person seeking to expunge a  
 8 criminal history record has applied for and received a  
 9 certificate of eligibility for expunction pursuant to  
 10 subsection (2). A criminal history record that relates to a  
 11 violation of s. 393.135, s. 394.4593, s. 787.025, chapter 794,  
 12 s. 796.03, s. 800.04, s. 817.034, s. 825.1025, s. 827.071,  
 13 chapter 839, s. 847.0133, s. 847.0135, s. 847.0145, s.  
 14 893.135, s. 916.1075, or a violation enumerated in s. 907.041  
 15 may ~~not~~ be expunged, if eligible under subsections (1) and  
 16 (2). If, without regard to whether adjudication was withheld,  
 17 ~~if~~ the defendant was found guilty of or pled guilty or nolo  
 18 contendere to the offense, or if the defendant, as a minor,  
 19 was found to have committed, or pled guilty or nolo contendere  
 20 to committing, the offense as a delinquent act, a record that  
 21 relates to any of the violations specified above may not be  
 22 sealed or expunged. The court may only order expunction of a  
 23 criminal history record pertaining to one arrest or one  
 24 incident of alleged criminal activity, except as provided in  
 25 this section. The court may, at its sole discretion, order the  
 26 expunction of a criminal history record pertaining to more  
 27 than one arrest if the additional arrests directly relate to  
 28 the original arrest. If the court intends to order the  
 29 expunction of records pertaining to the ~~such~~ additional  
 30 arrests, the ~~such~~ intent must be specified in the order. A  
 31 criminal justice agency may not expunge any record pertaining

591-2046-06

1 to the ~~such~~ additional arrests if the order to expunge does  
 2 not articulate the intention of the court to expunge a record  
 3 pertaining to more than one arrest. This section does not  
 4 prevent the court from ordering the expunction of only a  
 5 portion of a criminal history record pertaining to one arrest  
 6 or one incident of alleged criminal activity. Notwithstanding  
 7 any law to the contrary, a criminal justice agency may comply  
 8 with laws, court orders, and official requests of other  
 9 jurisdictions relating to expunction, correction, or  
 10 confidential handling of criminal history records or  
 11 information derived therefrom. This section does not confer  
 12 any right to the expunction of any criminal history record,  
 13 and any request for expunction of a criminal history record  
 14 may be denied at the sole discretion of the court.

15 (1) PETITION TO EXPUNGE A CRIMINAL HISTORY  
 16 RECORD.--Each petition to a court to expunge a criminal  
 17 history record is complete only when accompanied by:

18 (a) A certificate of eligibility for expunction issued  
 19 by the department pursuant to subsection (2).

20 (b) The petitioner's sworn statement attesting that  
 21 the petitioner:

22 1. Has never, prior to the date on which the petition  
 23 is filed, been adjudicated guilty of a criminal offense or  
 24 comparable ordinance violation or adjudicated delinquent for  
 25 committing a felony or a misdemeanor specified in s.  
 26 943.051(3)(b).

27 2. Has not been adjudicated guilty of, or adjudicated  
 28 delinquent for committing, any of the acts stemming from the  
 29 arrest or alleged criminal activity to which the petition  
 30 pertains.

31 3. Has never secured a prior sealing or expunction of

591-2046-06

1 a criminal history record under this section, former s.

2 893.14, former s. 901.33, or former s. 943.058, or from any

3 jurisdiction outside the state.

4 4. Is eligible for such an expunction to the best of

5 his or her knowledge or belief and does not have any other

6 petition to expunge or any petition to seal pending before any

7 court.

8

9 Any person who knowingly provides false information on the

10 ~~such~~ sworn statement to the court commits a felony of the

11 third degree, punishable as provided in s. 775.082, s.

12 775.083, or s. 775.084.

13 (2) CERTIFICATE OF ELIGIBILITY FOR EXPUNCTION.--Prior

14 to petitioning the court to expunge a criminal history record,

15 a person seeking to expunge a criminal history record shall

16 apply to the department for a certificate of eligibility for

17 expunction. The department shall, by rule adopted pursuant to

18 chapter 120, establish procedures pertaining to the

19 application for and issuance of certificates of eligibility

20 for expunction. The department shall issue a certificate of

21 eligibility for expunction to a person who is the subject of a

22 criminal history record if that person:

23 (a) Has obtained, and submitted to the department, a

24 written, certified statement from the appropriate state

25 attorney or statewide prosecutor which indicates:

26 1. That an indictment, information, or other charging

27 document was not filed or issued in the case.

28 2. That an indictment, information, or other charging

29 document, if filed or issued in the case, was dismissed or

30 nolle prosequi by the state attorney or statewide prosecutor,

31 or was dismissed by a court of competent jurisdiction.

Bill No. SB 1276

Barcode 855152

591-2046-06

1           3. That the criminal history record does not relate to  
2 a violation of s. 393.135, s. 394.4593, s. 787.025, chapter  
3 794, s. 796.03, s. 800.04, s. 817.034, s. 825.1025, s.  
4 827.071, chapter 839, s. 847.0133, s. 847.0135, s. 847.0145,  
5 s. 893.135, s. 916.1075, or a violation enumerated in s.  
6 907.041, where the defendant was found guilty of, or pled  
7 guilty or nolo contendere to any such offense, or that the  
8 defendant, as a minor, was found to have committed, or pled  
9 guilty or nolo contendere to committing, such an offense as a  
10 delinquent act, without regard to whether adjudication was  
11 withheld.

12           (b) Remits a \$75 processing fee to the department for  
13 placement in the Department of Law Enforcement Operating Trust  
14 Fund, unless the ~~such~~ fee is waived by the executive director.

15           (c) Has submitted to the department a certified copy  
16 of the disposition of the charge to which the petition to  
17 expunge pertains.

18           (d) Has never, prior to the date on which the  
19 application for a certificate of eligibility is filed, been  
20 adjudicated guilty of a criminal offense or comparable  
21 ordinance violation or adjudicated delinquent for committing a  
22 felony or a misdemeanor specified in s. 943.051(3)(b).

23           (e) Has not been adjudicated guilty of, or adjudicated  
24 delinquent for committing, any of the acts stemming from the  
25 arrest or alleged criminal activity to which the petition to  
26 expunge pertains.

27           (f) Has never secured a prior sealing or expunction of  
28 a criminal history record under this section, former s.  
29 893.14, former s. 901.33, or former s. 943.058.

30           (g) Is no longer under court supervision applicable to  
31 the disposition of the arrest or alleged criminal activity to

591-2046-06

1 which the petition to expunge pertains.

2 (h) Is not required to wait a minimum of 10 years  
3 prior to being eligible for an expunction of such records  
4 because all charges related to the arrest or criminal activity  
5 to which the petition to expunge pertains were dismissed prior  
6 to trial, adjudication, or the withholding of adjudication.  
7 Otherwise, such criminal history record must be sealed under  
8 this section, former s. 893.14, former s. 901.33, or former s.  
9 943.058 for at least 10 years before the ~~such~~ record is  
10 eligible for expunction.

11 (3) PROCESSING OF A PETITION OR ORDER TO EXPUNGE.--

12 (a) In judicial proceedings under this section, a copy  
13 of the completed petition to expunge shall be served upon the  
14 appropriate state attorney or the statewide prosecutor and  
15 upon the arresting agency; however, it is not necessary to  
16 make any agency other than the state a party. The appropriate  
17 state attorney or the statewide prosecutor and the arresting  
18 agency may respond to the court regarding the completed  
19 petition to expunge.

20 (b) If relief is granted by the court, the clerk of  
21 the court shall certify copies of the order to the appropriate  
22 state attorney or the statewide prosecutor and the arresting  
23 agency. The arresting agency is responsible for forwarding the  
24 order to any other agency to which the arresting agency  
25 disseminated the criminal history record information to which  
26 the order pertains. The department shall forward the order to  
27 expunge to the Federal Bureau of Investigation. The clerk of  
28 the court shall certify a copy of the order to any other  
29 agency which the records of the court reflect has received the  
30 criminal history record from the court.

31 (c) For an order to expunge entered by a court prior

591-2046-06

1 to July 1, 1992, the department shall notify the appropriate  
2 state attorney or statewide prosecutor of an order to expunge  
3 which is contrary to law because the person who is the subject  
4 of the record has previously been convicted of a crime or  
5 comparable ordinance violation or has had a prior criminal  
6 history record sealed or expunged. Upon receipt of the ~~such~~  
7 notice, the appropriate state attorney or statewide prosecutor  
8 shall take action, within 60 days, to correct the record and  
9 petition the court to void the order to expunge. The  
10 department shall seal the record until ~~such time as~~ the order  
11 is voided by the court.

12 (d) On or after July 1, 1992, the department or any  
13 other criminal justice agency is not required to act on an  
14 order to expunge entered by a court when the ~~such~~ order does  
15 not comply with the requirements of this section. Upon receipt  
16 of such an order, the department must notify the issuing  
17 court, the appropriate state attorney or statewide prosecutor,  
18 the petitioner or the petitioner's attorney, and the arresting  
19 agency of the reason for noncompliance. The appropriate state  
20 attorney or statewide prosecutor shall take action within 60  
21 days to correct the record and petition the court to void the  
22 order. No cause of action, including contempt of court, shall  
23 arise against any criminal justice agency for failure to  
24 comply with an order to expunge when the petitioner for the  
25 ~~such~~ order failed to obtain the certificate of eligibility as  
26 required by this section or the ~~such~~ order does not otherwise  
27 comply with the requirements of this section.

28 (4) EFFECT OF CRIMINAL HISTORY RECORD EXPUNCTION.--Any  
29 criminal history record of a minor or an adult which is  
30 ordered expunged by a court of competent jurisdiction pursuant  
31 to this section must be physically destroyed or obliterated by

591-2046-06

1 any criminal justice agency having custody of the ~~such~~ record;  
 2 except that any criminal history record in the custody of the  
 3 department must be retained in all cases. A criminal history  
 4 record ordered expunged that is retained by the department is  
 5 confidential and exempt from the provisions of s. 119.07(1)  
 6 and s. 24(a), Art. I of the State Constitution and not  
 7 available to any person or entity except upon order of a court  
 8 of competent jurisdiction. A criminal justice agency may  
 9 retain a notation indicating compliance with an order to  
 10 expunge.

11 (a) The person who is the subject of a criminal  
 12 history record that is expunged under this section or under  
 13 other provisions of law, including former s. 893.14, former s.  
 14 901.33, and former s. 943.058, may lawfully deny or fail to  
 15 acknowledge the arrests covered by the expunged record, except  
 16 when the subject of the record:

17 1. Is a candidate for employment with a criminal  
 18 justice agency;

19 2. Is a defendant in a criminal prosecution;

20 3. Concurrently or subsequently petitions for relief  
 21 under this section or s. 943.059;

22 4. Is a candidate for admission to The Florida Bar;

23 5. Is seeking to be employed or licensed by or to  
 24 contract with the Department of Children and Family Services  
 25 or the Department of Juvenile Justice or to be employed or  
 26 used by the ~~such~~ contractor or licensee in a sensitive  
 27 position having direct contact with children, the  
 28 developmentally disabled, the aged, or the elderly as provided  
 29 in s. 110.1127(3), s. 393.063, s. 394.4572(1), s. 397.451, s.  
 30 402.302(3), s. 402.313(3), s. 409.175(2)(i), s. 415.102(4), s.  
 31 916.106(10) and (13), s. 985.407, or chapter 400; or



Bill No. SB 1276

Barcode 855152

591-2046-06

1           6. Is seeking to be employed or licensed by the  
2 Department of Education, any district school board, any  
3 university laboratory school, any charter school, any private  
4 or parochial school, or any local governmental entity that  
5 licenses child care facilities.

6           (b) Subject to the exceptions in paragraph (a), a  
7 person who has been granted an expunction under this section,  
8 former s. 893.14, former s. 901.33, or former s. 943.058 may  
9 not be held under any provision of law of this state to commit  
10 perjury or to be otherwise liable for giving a false statement  
11 by reason of the ~~such~~ person's failure to recite or  
12 acknowledge an expunged criminal history record.

13           (c) Information relating to the existence of an  
14 expunged criminal history record which is provided in  
15 accordance with paragraph (a) is confidential and exempt from  
16 the provisions of s. 119.07(1) and s. 24(a), Art. I of the  
17 State Constitution, except that the department shall disclose  
18 the existence of a criminal history record ordered expunged to  
19 the entities set forth in subparagraphs (a)1., 4., 5., and 6.  
20 for their respective licensing and employment purposes, and to  
21 criminal justice agencies for their respective criminal  
22 justice purposes. It is unlawful for any employee of an entity  
23 set forth in subparagraph (a)1., subparagraph (a)4.,  
24 subparagraph (a)5., or subparagraph (a)6. to disclose  
25 information relating to the existence of an expunged criminal  
26 history record of a person seeking employment or licensure  
27 with the ~~such~~ entity or contractor, except to the person to  
28 whom the criminal history record relates or to persons having  
29 direct responsibility for employment or licensure decisions.  
30 Any person who violates this paragraph commits a misdemeanor  
31 of the first degree, punishable as provided in s. 775.082 or

Bill No. SB 1276

Barcode 855152

591-2046-06

1 s. 775.083.

2 (5) STATUTORY REFERENCES.--Any reference to any other  
3 chapter, section, or subdivision of the Florida Statutes in  
4 this section constitutes a general reference under the  
5 doctrine of incorporation by reference.

6 Section 2. Section 943.059, Florida Statutes, is  
7 amended to read:

8 943.059 Court-ordered sealing of criminal history  
9 records.--The courts of this state shall continue to have  
10 jurisdiction over their own procedures, including the  
11 maintenance, sealing, and correction of judicial records  
12 containing criminal history information to the extent the ~~such~~  
13 procedures are not inconsistent with the conditions,  
14 responsibilities, and duties established by this section. Any  
15 court of competent jurisdiction may order a criminal justice  
16 agency to seal the criminal history record of a minor or an  
17 adult who complies with the requirements of this section. The  
18 court shall not order a criminal justice agency to seal a  
19 criminal history record until the person seeking to seal a  
20 criminal history record has applied for and received a  
21 certificate of eligibility for sealing pursuant to subsection  
22 (2). A criminal history record that relates to a violation of  
23 s. 393.135, s. 394.4593, s. 787.025, chapter 794, s. 796.03,  
24 s. 800.04, s. 817.034, s. 825.1025, s. 827.071, chapter 839,  
25 s. 847.0133, s. 847.0135, s. 847.0145, s. 893.135, s.  
26 916.1075, or a violation enumerated in s. 907.041 may ~~not~~ be  
27 sealed, if eligible under subsections (1) and (2), unless,  
28 without regard to whether adjudication was withheld, ~~if~~ the  
29 defendant was found guilty of or pled guilty or nolo  
30 contendere to the offense, or if the defendant, as a minor,  
31 was found to have committed or pled guilty or nolo contendere

591-2046-06

1 to committing the offense as a delinquent act. If the  
 2 defendant was found guilty of or pled guilty or nolo  
 3 contendere to the offense, or if the defendant, as a minor,  
 4 was found to have committed or pled guilty or nolo contendere  
 5 to committing the offense as a delinquent act, a record that  
 6 relates to any of the violations specified above may not be  
 7 sealed, without regard to whether adjudication was withheld.  
 8 The court may only order sealing of a criminal history record  
 9 pertaining to one arrest or one incident of alleged criminal  
 10 activity, except as provided in this section. The court may,  
 11 at its sole discretion, order the sealing of a criminal  
 12 history record pertaining to more than one arrest if the  
 13 additional arrests directly relate to the original arrest. If  
 14 the court intends to order the sealing of records pertaining  
 15 to the ~~such~~ additional arrests, the ~~such~~ intent must be  
 16 specified in the order. A criminal justice agency may not seal  
 17 any record pertaining to the ~~such~~ additional arrests if the  
 18 order to seal does not articulate the intention of the court  
 19 to seal records pertaining to more than one arrest. This  
 20 section does not prevent the court from ordering the sealing  
 21 of only a portion of a criminal history record pertaining to  
 22 one arrest or one incident of alleged criminal activity.  
 23 Notwithstanding any law to the contrary, a criminal justice  
 24 agency may comply with laws, court orders, and official  
 25 requests of other jurisdictions relating to sealing,  
 26 correction, or confidential handling of criminal history  
 27 records or information derived therefrom. This section does  
 28 not confer any right to the sealing of any criminal history  
 29 record, and any request for sealing a criminal history record  
 30 may be denied at the sole discretion of the court.

31 (1) PETITION TO SEAL A CRIMINAL HISTORY RECORD.--Each

Bill No. SB 1276

Barcode 855152

591-2046-06

1 petition to a court to seal a criminal history record is  
2 complete only when accompanied by:

3 (a) A certificate of eligibility for sealing issued by  
4 the department pursuant to subsection (2).

5 (b) The petitioner's sworn statement attesting that  
6 the petitioner:

7 1. Has never, prior to the date on which the petition  
8 is filed, been adjudicated guilty of a criminal offense or  
9 comparable ordinance violation or adjudicated delinquent for  
10 committing a felony or a misdemeanor specified in s.  
11 943.051(3)(b).

12 2. Has not been adjudicated guilty of or adjudicated  
13 delinquent for committing any of the acts stemming from the  
14 arrest or alleged criminal activity to which the petition to  
15 seal pertains.

16 3. Except as otherwise provided in this section, has  
17 never secured a prior sealing or expunction of a criminal  
18 history record under this section, former s. 893.14, former s.  
19 901.33, former s. 943.058, or from any jurisdiction outside  
20 the state.

21 4. Is eligible for such a sealing to the best of his  
22 or her knowledge or belief and does not have any other  
23 petition to seal or any petition to expunge pending before any  
24 court.

25  
26 Any person who knowingly provides false information on the  
27 ~~such~~ sworn statement to the court commits a felony of the  
28 third degree, punishable as provided in s. 775.082, s.  
29 775.083, or s. 775.084.

30 (2) CERTIFICATE OF ELIGIBILITY FOR SEALING.--Prior to  
31 petitioning the court to seal a criminal history record, a

Bill No. SB 1276

Barcode 855152

591-2046-06

1 person seeking to seal a criminal history record shall apply  
2 to the department for a certificate of eligibility for  
3 sealing. The department shall, by rule adopted pursuant to  
4 chapter 120, establish procedures pertaining to the  
5 application for and issuance of certificates of eligibility  
6 for sealing. The department shall issue a certificate of  
7 eligibility for sealing to a person who is the subject of a  
8 criminal history record provided that the ~~such~~ person:

9 (a) Has submitted to the department a certified copy  
10 of the disposition of the charge to which the petition to seal  
11 pertains.

12 (b) Remits a \$75 processing fee to the department for  
13 placement in the Department of Law Enforcement Operating Trust  
14 Fund, unless the ~~such~~ fee is waived by the executive director.

15 (c) Has never, prior to the date on which the  
16 application for a certificate of eligibility is filed, been  
17 adjudicated guilty of a criminal offense or comparable  
18 ordinance violation or adjudicated delinquent for committing a  
19 felony or a misdemeanor specified in s. 943.051(3)(b).

20 (d) Has not been adjudicated guilty of or adjudicated  
21 delinquent for committing any of the acts stemming from the  
22 arrest or alleged criminal activity to which the petition to  
23 seal pertains.

24 (e) Has never secured a prior sealing or expunction of  
25 a criminal history record under this section, former s.  
26 893.14, former s. 901.33, or former s. 943.058 involving an  
27 offense for which the defendant has been found guilty or pled  
28 guilty or nolo contendere.

29 (f) Is no longer under court supervision applicable to  
30 the disposition of the arrest or alleged criminal activity to  
31 which the petition to seal pertains.

Bill No. SB 1276

Barcode 855152

591-2046-06

1 (3) PROCESSING OF A PETITION OR ORDER TO SEAL.--

2 (a) In judicial proceedings under this section, a copy  
3 of the completed petition to seal shall be served upon the  
4 appropriate state attorney or the statewide prosecutor and  
5 upon the arresting agency; however, it is not necessary to  
6 make any agency other than the state a party. The appropriate  
7 state attorney or the statewide prosecutor and the arresting  
8 agency may respond to the court regarding the completed  
9 petition to seal.

10 (b) If relief is granted by the court, the clerk of  
11 the court shall certify copies of the order to the appropriate  
12 state attorney or the statewide prosecutor and to the  
13 arresting agency. The arresting agency is responsible for  
14 forwarding the order to any other agency to which the  
15 arresting agency disseminated the criminal history record  
16 information to which the order pertains. The department shall  
17 forward the order to seal to the Federal Bureau of  
18 Investigation. The clerk of the court shall certify a copy of  
19 the order to any other agency which the records of the court  
20 reflect has received the criminal history record from the  
21 court.

22 (c) For an order to seal entered by a court prior to  
23 July 1, 1992, the department shall notify the appropriate  
24 state attorney or statewide prosecutor of any order to seal  
25 which is contrary to law because the person who is the subject  
26 of the record has previously been convicted of a crime or  
27 comparable ordinance violation or has had a prior criminal  
28 history record sealed or expunged. Upon receipt of the ~~such~~  
29 notice, the appropriate state attorney or statewide prosecutor  
30 shall take action, within 60 days, to correct the record and  
31 petition the court to void the order to seal. The department

Bill No. SB 1276

Barcode 855152

591-2046-06

1 shall seal the record until ~~such time as~~ the order is voided  
2 by the court.

3 (d) On or after July 1, 1992, the department or any  
4 other criminal justice agency is not required to act on an  
5 order to seal entered by a court when the ~~such~~ order does not  
6 comply with the requirements of this section. Upon receipt of  
7 such an order, the department must notify the issuing court,  
8 the appropriate state attorney or statewide prosecutor, the  
9 petitioner or the petitioner's attorney, and the arresting  
10 agency of the reason for noncompliance. The appropriate state  
11 attorney or statewide prosecutor shall take action within 60  
12 days to correct the record and petition the court to void the  
13 order. No cause of action, including contempt of court, shall  
14 arise against any criminal justice agency for failure to  
15 comply with an order to seal when the petitioner for the ~~such~~  
16 order failed to obtain the certificate of eligibility as  
17 required by this section or when the ~~such~~ order does not  
18 comply with the requirements of this section.

19 (e) An order sealing a criminal history record  
20 pursuant to this section does not require that the ~~such~~ record  
21 be surrendered to the court, and the ~~such~~ record shall  
22 continue to be maintained by the department and other criminal  
23 justice agencies.

24 (4) EFFECT OF CRIMINAL HISTORY RECORD SEALING.--A  
25 criminal history record of a minor or an adult which is  
26 ordered sealed by a court of competent jurisdiction pursuant  
27 to this section is confidential and exempt from the provisions  
28 of s. 119.07(1) and s. 24(a), Art. I of the State Constitution  
29 and is available only to the person who is the subject of the  
30 record, to the subject's attorney, to criminal justice  
31 agencies for their respective criminal justice purposes, or to

Bill No. SB 1276

Barcode 855152

591-2046-06

1 those entities set forth in subparagraphs (a)1., 4., 5., and  
2 6. for their respective licensing and employment purposes.

3 (a) The subject of a criminal history record sealed  
4 under this section or under other provisions of law, including  
5 former s. 893.14, former s. 901.33, and former s. 943.058, may  
6 lawfully deny or fail to acknowledge the arrests covered by  
7 the sealed record, except when the subject of the record:

8 1. Is a candidate for employment with a criminal  
9 justice agency;

10 2. Is a defendant in a criminal prosecution;

11 3. Concurrently or subsequently petitions for relief  
12 under this section or s. 943.0585;

13 4. Is a candidate for admission to The Florida Bar;

14 5. Is seeking to be employed or licensed by or to  
15 contract with the Department of Children and Family Services  
16 or the Department of Juvenile Justice or to be employed or  
17 used by the ~~such~~ contractor or licensee in a sensitive  
18 position having direct contact with children, the  
19 developmentally disabled, the aged, or the elderly as provided  
20 in s. 110.1127(3), s. 393.063, s. 394.4572(1), s. 397.451, s.  
21 402.302(3), s. 402.313(3), s. 409.175(2)(i), s. 415.102(4), s.  
22 415.103, s. 916.106(10) and (13), s. 985.407, or chapter 400;  
23 or

24 6. Is seeking to be employed or licensed by the  
25 Department of Education, any district school board, any  
26 university laboratory school, any charter school, any private  
27 or parochial school, or any local governmental entity that  
28 licenses child care facilities.

29 (b) Subject to the exceptions in paragraph (a), a  
30 person who has been granted a sealing under this section,  
31 former s. 893.14, former s. 901.33, or former s. 943.058 may



591-2046-06

not be held under any provision of law of this state to commit perjury or to be otherwise liable for giving a false statement by reason of the ~~such~~ person's failure to recite or acknowledge a sealed criminal history record.

(c) Information relating to the existence of a sealed criminal record provided in accordance with the provisions of paragraph (a) is confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution, except that the department shall disclose the sealed criminal history record to the entities set forth in subparagraphs (a)1., 4., 5., and 6. for their respective licensing and employment purposes. It is unlawful for any employee of an entity set forth in subparagraph (a)1., subparagraph (a)4., subparagraph (a)5., or subparagraph (a)6. to disclose information relating to the existence of a sealed criminal history record of a person seeking employment or licensure with the ~~such~~ entity or contractor, except to the person to whom the criminal history record relates or to persons having direct responsibility for employment or licensure decisions. Any person who violates the provisions of this paragraph commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(5) STATUTORY REFERENCES.--Any reference to any other chapter, section, or subdivision of the Florida Statutes in this section constitutes a general reference under the doctrine of incorporation by reference.

Section 3. This act shall take effect upon becoming a law.